

Senate File 361

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AN ACT

RELATING TO EMERGENCY PROCEDURES FOR THE TEMPORARY DETENTION
AND TREATMENT OF PERSONS WHO ARE INCAPACITATED OR IMPAIRED
DUE TO SUBSTANCE ABUSE OR MENTAL HEALTH PROBLEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 125.91, subsection 2, Code 2003, is amended to read as follows:

2. a. A peace officer who has reasonable grounds to believe that the circumstances described in subsection 1 are applicable, may, without a warrant, take or cause that person to be taken to the nearest available facility referred to in section 125.81, subsection 2 or 3. Such an intoxicated or incapacitated person may also be delivered to a facility by someone other than a peace officer upon a showing of reasonable grounds. Upon delivery of the person to a facility under this section, the ~~chief medical officer examining~~ physician may order treatment of the person, but only to the extent necessary to preserve the person's life or to

appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue. The peace officer or other person who delivered the person to the facility shall describe the circumstances of the matter to the ~~administrator examining~~ physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the ~~administrator in consultation with the chief medical~~ administrator examining physician has reasonable grounds to believe

that the circumstances in subsection 1 are applicable, the ~~administrator examining physician~~ shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall ~~immediately~~ proceed to the facility where the person is detained, except

~~that if the administrator's communication with the magistrate occurs between the hours of midnight and seven a.m. and the magistrate deems it appropriate under the circumstances described by the administrator, the magistrate may delay going to the facility, and in that case, shall, based upon the circumstances described by the examining physician, give the~~ administrator examining physician verbal oral instructions

either directing that the person be released forthwith, or authorizing the person's ~~continued detention at the in an~~ appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility. ~~In the latter case, the magistrate shall:~~

a. Arrive at the facility where the person is being detained as soon as possible and no later than twelve o'clock noon of the same day on which the administrator's communication occurred.

b. By the close of business on the next working day file with the clerk a written report stating the substance of the communication with the administrator on which the person's continued detention was ordered. If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 125.75. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility and the grounds supporting the finding of probable cause to believe that the person is a chronic substance abuser likely to result in physical injury to the person or others if not detained. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the chief medical officer of the facility to which the person was originally taken, any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.

3 6 Sec. 2. Section 125.91, subsection 3, Code 2003, is
3 7 amended by striking the subsection.

3 8 Sec. 3. Section 229.22, subsection 2, Code 2003, is
3 9 amended to read as follows:

3 10 2. In the circumstances described in subsection 1, any
3 11 peace officer who has reasonable grounds to believe that a
3 12 person is mentally ill, and because of that illness is likely
3 13 to physically injure the person's self or others if not
3 14 immediately detained, may without a warrant take or cause that
3 15 person to be taken to the nearest available facility as
3 16 defined in section 229.11, subsections 2 and 3. A person
3 17 believed mentally ill, and likely to injure the person's self
3 18 or others if not immediately detained, may be delivered to a
3 19 hospital by someone other than a peace officer. Upon delivery
3 20 of the person believed mentally ill to the hospital, the ~~chief~~
3 21 ~~medical officer examining physician~~ may order treatment of

3 22 that person, including chemotherapy, but only to the extent
3 23 necessary to preserve the person's life or to appropriately
3 24 control behavior by the person which is likely to result in
3 25 physical injury to that person or others if allowed to
3 26 continue. The peace officer who took the person into custody,
3 27 or other party who brought the person to the hospital, shall
3 28 describe the circumstances of the matter to the ~~chief medical~~
3 29 ~~officer examining physician~~. If the person is a peace
3 30 officer, the peace officer may do so either in person or by
3 31 written report. If the chief medical officer examining
3 32 physician finds that there is reason to believe that the
3 33 person is seriously mentally impaired, and because of that
3 34 impairment is likely to physically injure the person's self or
3 35 others if not immediately detained, the chief medical officer
4 1 examining physician shall at once communicate with the nearest
4 2 available magistrate as defined in section 801.4, subsection
4 3 10. The magistrate shall, based upon the circumstances
4 4 described by the chief medical officer examining physician,
4 5 give the chief medical officer examining physician verbal oral
4 6 instructions either directing that the person be released
4 7 forthwith or authorizing the person's continued detention at
4 8 that in an appropriate facility. The magistrate may also give
4 9 oral instructions and order that the detained person be
4 10 transported to an appropriate facility. In the latter case,
4 11 the magistrate shall:

4 12 a. By the close of business on the next working day, file
4 13 with the clerk a written report stating the substance of the
4 14 information on the basis of which the person's continued
4 15 detention was ordered; and

4 16 b. Proceed to the facility where the person is being
4 17 detained within twenty-four hours of giving instructions that
4 18 the person be detained. If the magistrate orders that the
4 19 person be detained, the magistrate shall, by the close of
4 20 business on the next working day, file a written order with
4 21 the clerk in the county where it is anticipated that an
4 22 application may be filed under section 229.6. The order may
4 23 be filed by facsimile if necessary. The order shall state the
4 24 circumstances under which the person was taken into custody or
4 25 otherwise brought to a facility, and the grounds supporting
4 26 the finding of probable cause to believe that the person is
4 27 seriously mentally impaired and likely to injure the person's
4 28 self or others if not immediately detained. The order shall
4 29 confirm the oral order authorizing the person's detention
4 30 including any order given to transport the person to an
4 31 appropriate facility. The clerk shall provide a copy of that
4 32 order to the chief medical officer of the facility to which
4 33 the person was originally taken, to any subsequent facility to
4 34 which the person was transported, and to any law enforcement
4 35 department or ambulance service that transported the person
5 1 pursuant to the magistrate's order.

5 2 Sec. 4. Section 229.22, subsection 3, Code 2003, is
5 3 amended by striking the subsection.

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MARY E. KRAMER
President of the Senate

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CHRISTOPHER C. RANTS
Speaker of the House

5 15 I hereby certify that this bill originated in the Senate and
5 16 is known as Senate File 361, Eightieth General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2003

THOMAS J. VILSACK
Governor